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NOTICE OF PUBLIC HEARING

REPAIRS/IMPROVEMENTS TO PRIVATE WAYS

DATE AND TIME: Tuesday, March 18, 2014 at 6:00 p.m.

LOCATION: Dedham Middle School Auditorium, 70 Whiting Avenue, Dedham

SUBJECT: Proposed changes to the Town Bylaws Related to Repairs and Improvements to Private Ways

SUMMARY

Dedham's Bylaws limit the maintenance the Town can perform on private ways. Additionally they require that private way abutters who would like to make the street a public way, are first required to themselves pay for upgrading the private way to current standards. Only then, following the upgrade, can they petition the Board of Selectmen (BOS) and Town Meeting to accept the road as a public way. At the Annual Town Meeting in May a new process will be proposed, which gives abutters, if they choose, a different approach to change their road from private to public.

BACKGROUND

Private streets have a long history in Dedham, some as far back as the 1800's. The fact that they exist at all is not unique to Dedham; other communities also have private streets. There are about 17 miles of private streets in our town.

Most private streets were never constructed to acceptable standards. They often lack basic road requirements like proper drainage or a suitable foundation. Their origin can be traced to the days before the early 1950's when subdivision control laws were first adopted to regulate land development.

They represent an ongoing neighborhood and public works problem for which new solutions are needed. The fact that private streets were constructed without meeting acceptable engineering standards is the reason they pothole, washout or erode and cause abutters to seek help from the Town. However, the help that the DPW can offer is limited because the street is private. It was never accepted as a public street. The town has no legal interest in the street and any service provided by the town needs to be in full accordance with state statutes that regulate how

Dedham can spend public funds on private roads. By way of contrast public streets are those in which the town has a public interest and which were built to town standards.

Current Dedham Bylaws (Ch. 12, s 12- <http://www.dedham-ma.gov/index.cfm?cdid=12109>) provide that private way abutters who would like to make the street a public way, are first required to themselves pay for upgrading the private way to current standards. Only then, following the upgrade, can they petition the Board of Selectmen (BOS) and Town Meeting to accept the road as a public way. However, there are no recent examples of this happening.

Each year Selectmen and the Town Administrator's office field questions from residents who are on private ways. They see the good results of the Pavement Management Program, which began 7 years ago, and ask when their road will be paved. When they are told they are not eligible because they live on a private way they express concern. In many cases they do not understand the implications of living on a private way, which in other words can be described as living on a road that has not been accepted as a public road. Typically neither the seller, buyer, real estate agents nor attorneys involved in the buying and selling of the house discussed that "private way" means abutters are responsible for upkeep.

Abutters also question why they are paying the same tax rate as everyone else despite not receiving the road maintenance service.

The proposed changes to the bylaw will significantly change the long-standing but little-used existing process. The new process, as does the current process, requires 100% of abutters to support the change at every step of the process. First, abutters ask Selectmen to layout (on paper) the road as a public way so they can see how the road would impact the current situation. If abutters agree with the proposed layout and they all agree that they want to move forward they must sign appropriate legal paperwork releasing the Town from any damages, and allows the Town to take any land required. Next the Selectmen would be asked to vote to ask Town Meeting to accept the road as public. If Town Meeting agrees then the final legal document would be signed, and the road would be added to the Pavement Management Program. At some point in the future the road will eventually be renovated using Town funds. It is unlikely that any road under this program would be renovated for several years but now is the time to consider making the change because the legal agreements and engineering work is time-consuming.

The Warrant Article at the May Town Meeting is sponsored by Selectman Chairman Michael Butler and Planning Board Chairman Michael Podolski.

We hope you can attend this meeting to learn more and ask questions.